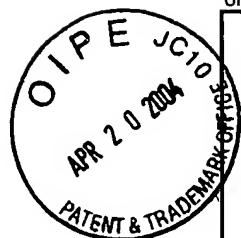


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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/798,776	
	Filing Date	March 10, 2004	
	First Named Inventor	Thomas J. FOGARTY	
	Art Unit	Not Yet Assigned	
	Examiner Name	Not Yet Assigned	
Total Number of Pages in This Submission	9	Attorney Docket Number	399242000401

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement and PTO Form 1449 - 8 pgs. <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Return receipt postcard.
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	MORRISON & FOERSTER LLP (Customer No. 20872) Cameron A. King - 41,897
Signature	<i>Cameron A. King</i>
Date	<i>April 15, 2004</i>

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 4/15/04 Signature: *Victoria A. Wilson* (Victoria A. Wilson)



PATENT
Docket No. 399242000401

CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"

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Victoria Wilson

Victoria Wilson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Thomas J. FOGARTY et al.

Serial No.: 10/798,776

Filing Date: March 10, 2004

For: IMPROVED DEVICE FOR
ACCURATELY MARKING TISSUE

Examiner: Not Yet Assigned

Group Art Unit: Not Yet Assigned

**INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO-1449. Copies of the documents were previously submitted in an Information Disclosure Statement and/or Office Action, directed to the related application Serial Number 09/935,477, filed August 22, 2001, and, accordingly, copies are not included herewith. This protocol conforms with 37 C.F.R. § 1.98(d) and M.P.E.P. 609(A)(2). The Examiner is requested to make these documents of record in the application.

This Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☐ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97(e)(1) has been provided.
- ☒ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97(e)(1) has been provided.
- ☐ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
 - ☐ A fee is required. A check in the amount of ___ is enclosed.
 - ☐ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly; no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of ___ is enclosed.
 - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)

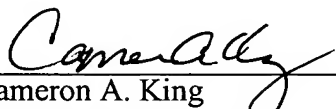
Applicants would appreciate the Examiner initialing and returning the Form PTO-1449, indicating that the information has been considered and made of record herein.

The information contained in this Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. §1.17(p)) is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing 399242000401. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: April 15, 2004

Respectfully submitted,

By: 
Cameron A. King
Registration No. 41,897

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6524
Facsimile: (415) 268-7522



Form PTO-1449

INFORMATION DISCLOSURE CITATION
IN AN APPLICATION

(Use several sheets if necessary)

Docket Number 399242000401

Application Number 10/798,776

Applicant

Thomas J. FOGARTY et al.

Filing Date March 10, 2004

Group Art Unit Not Yet Assigned

Mailing Date April 15, 2004

U.S. PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Filing Date If Appropriate
	1.	11/26/1935	2,022,065	Wappler			
	2.	07/14/1936	2,047,535	Wappler			
	3.	07/11/1967	3,330,278	Santomieri			
	4.	11/07/1967	3,351,463	Rozner et al.			
	5.	06/23/1970	3,516,412	Ackerman			
	6.	02/06/1973	3,714,851	Orser			
	7.	08/21/1973	3,753,700	Harrison et al.			
	8.	06/24/1975	3,890,977	Wilson			
	9.	03/8/77	4,010,756	DuMont et al.			
	10.	08/01/1978	4,103,690	Harris			
	11.	06/23/1981	4,274,408	Nimrod			
	12.	7/27/82	4,341,226	Peters			
	13.	9/6/83	4,402,328	Doring			
	14.	06/03/1986	4,592,356	Gutierrez			
	15.	06/17/1986	4,595,007	Mericle			
	16.	10/14/1986	4,616,656	Nicholson et al.			
	17.	01/6/87	4,633,880	Osypka et al.			
	18.	05/19/1987	4,665,906	Jervis			
	19.	07/28/1987	4,682,606	DeCaprio			
	20.	01/24/1989	4,799,495	Hawkins et al.			
	21.	09/26/1989	4,869,259	Elkins			
	22.	05/15/1990	4,925,445	Sakamoto et al.			
	23.	10/30/1990	4,966,583	Debbas			
	24.	04/30/1991	5,011,473	Gatturna			
	25.	05/28/1991	5,018,530	Rank et al.			

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

Form PTO-1449 INFORMATION DISCLOSURE CITATION IN AN APPLICATION <i>(Use several sheets if necessary)</i>				Docket Number 399242000401		Application Number 10/798,776	
				Applicant <div style="text-align: center;">Thomas J. FOGARTY et al.</div>			
				Filing Date March 10, 2004		Group Art Unit Not Yet Assigned	
				Mailing Date April 15, 2004			
	26.	10/22/1991	5,059,197	Urie et al.			
	27.	11/26/1991	5,067,957	Jervis			
	28.	06/16/1992	5,122,136	Guglielmi et al.			
	29.	10/27/1992	5,158,084	Ghiatas			
	30.	02/02/1993	5,183,463	Debbas			
	31.	03/02/1993	5,190,546	Jervis			
	32.	03/30/1993	5,197,482	Rank et al.			
	33.	04/27/1993	5,205,829	Lituchy			
	34.	6/8/93	5,217,027	Hermens			
	35.	06/22/1993	5,221,269	Miller et al.			
	36.	2/1/94	5,282,845	Bush et al.			
	37.	04/05/1994	5,300,068	Rosar et al.			
	38.	04/12/1994	5,301,682	Debbas			
	39.	09/27/94	5,350,419	Bendel et al.			
	40.	10/11/1994	5,353,804	Kornberg et al.			
	41.	04/25/1995	5,409,004	Sloan			
	42.	10/31/1995	5,462,062	Rubinstein et al.			
	43.	12/05/1995	5,472,441	Edwards et al.			
	44.	1/23/96	5,486,183	Middleman et al.			
	45.	02/06/1996	5,488,958	Topel et al.			
	46.	04/16/1996	5,507,743	Edwards et al.			
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	49.	9/17/96	5,556,410	Mittermeir et al.			
	50.	09/24/1996	5,558,673	Edwards et al.			
	51.	09/30/1997	5,672,173	Gough et al.			
	52.	09/30/1997	5,672,174	Gough et al.			
	53.	11/04/1997	5,683,384	Gough et al.			
	54.	11/11/1997	5,685,853	Bonnet			
EXAMINER:				DATE CONSIDERED:			
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	Applicant Thomas J. FOGARTY et al.	
	Filing Date March 10, 2004	Group Art Unit Not Yet Assigned
	Mailing Date April 15, 2004	

	55.	01/20/1998	5,709,697	Ratcliff et al.			
	56.	04/07/1998	5,735,847	Gough et al.			
	57.	04/21/1998	5,741,225	Lax et al.			
	58.	05/12/1998	5,749,887	Heske et al.			
	59.	08/18/1998	5,794,626	Kieturakis			
	60.	08/18/1998	5,795,308	Russin			
	61.	09/01/1998	5,800,484	Gough et al.			
	62.	09/15/98	5,807,339	Bostrom et al.			
	63.	09/22/1998	5,810,804	Gough et al.			
	64.	12/29/1998	5,853,366	Dowlatsahi			
	65.	01/05/1999	5,855,576	LeVeen et al.			
	66.	01/26/1999	5,863,290	Gough et al.			
	67.	3/9/99	5,879,357	Heaton et al.			
	68.	03/16/1999	5,882,316	Chu et al.			
	69.	05/11/1999	5,902,310	Foerster et al.			
	70.	5/18/99	5,904,690	Middleman et al.			
	71.	08/24/1999	5,941,890	Voegele et al.			
	72.	09/21/1999	5,954,655	Hussman			
	73.	11/23/1999	5,989,265	Bouquet De La Joliniere et al.			
	74.	12/28/1999	6,007,495	Matula			
	75.	02/01/2000	6,019,757	Scheldrup			
	76.	02/08/2000	6,022,362	Lee et al.			
	77.	03/21/2000	6,039,735	Greep			
	78.	04/18/2000	6,050,954	Mittermeier			
	79.	04/18/2000	6,051,008	Saadat et al.			
	80.	04/25/2000	6,053,876	Fisher			
	81.	04/25/2000	6,053,925	Barnhart			
	82.	06/27/2000	6,080,113	Heneveld et al.			
	83.	06/27/2000	6,080,114	Russin			

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	Mailing Date April 15, 2004	

FOREIGN PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Country	Class	Subclass	Translation	
							YES	NO
	84.	03/18/1998	EP 0 829 232	Europe				
	85.	09/22/1988	WO 88/06864	PCT				
	86.	09/12/1996	WO 96/27328	PCT			Abstract	
	87.	02/04/1999	WO 99/04704	PCT				
	88.	05/27/1999	WO 99/25248	PCT				
	89.	09/02/1999	WO 99/43268	PCT				
	90.	09/10/1999	WO 99/44506	PCT				
	91.	11/18/1999	WO 99/58065	PCT				
	92.	12/29/1999	WO 99/66834	PCT				
	93.	03/02/2000	WO 00/10471	PCT				
	94.	03/09/2000	WO 00/12009	PCT				
	95.	03/09/2000	WO 00/12010	PCT				
	96.	03/16/2000	WO 00/13602	PCT				
	97.	03/30/2000	WO 00/16697	PCT				
	98.	05/04/2000	WO 00/24320	PCT				
	99.	06/02/2000	WO 00/30531	PCT				
	100.	06/15/2000	WO 00/33743	PCT				
	101.	8/6/92	WO 92/12678	PCT				
	102.	5/25/00	WO 00/28913	PCT				
	103.	1/25/01	WO 01/05317	PCT				
	104.	1/25/01	WO 01/05320	PCT				
	105.	5/9/90	0 385 604	EPO				
	106.	7/11/90	0 395 997	EPO				

OTHER DOCUMENTS

(including author, title, Date, Pertinent Pages, Etc.)

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		Applicant Thomas J. FOGARTY et al.	
		Filing Date March 10, 2004	Group Art Unit Not Yet Assigned
		Mailing Date April 15, 2004	

Examiner Initials	Ref. No.	Title
	107.	Anonymous. <u>Ariadne's Thread™ Repositionable Breast Localisation Needle</u> , (Product Information), one page (date not known).
	108.	Anonymous. (1999). <u>Auto Suture MIBB Site Marker: Single Use Clip Applier</u> , <i>United States Surgical</i> (Product instructions), 2 pages.
	109.	Anonymous. (1988). <u>Biopsy Needles and Trays</u> , <i>Cook Diagnostic and Interventional Products</i> , page 3 (Products price list).
	110.	Anonymous. (1999). <u>MIBB Site Marker</u> , <i>United States Surgical</i> (Sales brochure), 4 pages.
	111.	Anonymous. (1987). <u>Homer Mammalok® Breast Lesion Needle/Wire Localizer</u> , <i>Namic® Angiographic Systems Division</i> , Glens Falls, New York, (Hospital products price list), 4 pages.
	112.	Anonymous. <u>Blunt Tubes with Finished Ends. Pointed Cannula</u> , <i>Popper & Sons Biomedical Instrument Division</i> , (Products Price List), one page (date not known).
	113.	Anonymous. <u>Ground Cannulae</u> , <i>ISPG</i> , New Milford, CT, (Advertisement) one page (date not known).
	114.	Gennari, R. et al. (June 2000). "Use of Technetium-99m-Labeled Colloid Albumin for Preoperative and Intraoperative Localization of Nonpalpable Breast Lesions," <i>J. Am. Coll. Surg.</i> 190(6):692-699.
	115.	Kopans, D.B. et al. (November 1985). "Spring Hookwire Breast Lesion Localizer: Use with Rigid-Compression. Mammographic Systems," <i>Radiology</i> 157(2):537-538.
	116.	Mullan, B.F. et al. (May 1999). "Lung Nodules: Improved Wire for CT-Guided Localization," <i>Radiology</i> 211:561-565.
	117.	Urrutia et al. (1988). "Retractable-Barb Needle for Breast Lesion Localization: Use in 60 Cases," <i>Radiology</i> 169(3):845-847.
	118.	MDTECH product literature, "FlexStrand", product description, 12/1999, 1 pg.
	119.	MDTECH product literature, "D Wire", product description, 3/2000, 2 pgs.

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